

### REMARKS

In the above-mentioned Office Action, all of the pending claims, claims 1-20, were rejected under Section 103(a) over *Badt*.

Responsive to the rejection of the claims, independent claims 1 and 16 have been amended, as set forth herein, in manners believed better to distinguish the invention of the present application over the cited reference. Various of the dependent claims have been amended responsive to amendments made to their respective parent claims. Support for the amendments to the claims can be found, for instance, on page 13, lines 2-4 and 7-9.

The rejection of independent claims 1 and 16, as now-amended, is respectfully traversed, for reasons that follow.

With respect to claim 1, the claim has been amended, now to recite that the network-positioned determiner is adapted to receive an indication of initiation of communications by the mobile host. The recitation of the determiner has been further amended, now to recite that the determiner is configured to determine, on behalf of the mobile hose, and responsive to representation of the indication of the initiation of the communications, a packet-size. Method claim 16 has been analogously amended, now to recite the operation of detecting, at the network part, an indication of initiation of communications by the mobile host. And, the operation of determining is recited to be performed at the network part, on behalf of the mobile node and responsive to detection made during the operation of detecting.

While *Badt* appears to be directed toward a method for refining PMTU estimates, the disclosure describes operation different than that recited in the claims, as now-amended. The method disclosed in *Badt* is entirely network-performed. With respect to claim 1, *Badt* fails to disclose a determiner adapted to receive an indication of initiation of communications by a mobile host. And, *Badt* fails to disclose a determiner that determines on behalf of a mobile host and responsive to reception of the indication of the initiation of the communications the packet-size. Analogously, with respect to claim 16, *Badt* fails to disclose the operation of detecting at the network part an indication of initiation of communications by the mobile host. And, *Badt*

also fails to disclose an operation of determining at the network part on behalf of the mobile host and responsive to detection made during the operation of detecting a packet-size.

As recited in the claims, as now-amended, the packet-size is determined at the network on behalf of a mobile host, responsive to initiation of the communications by the mobile host. *Badt* fails to disclose, and no inference can be drawn of, network determinations made on behalf of a mobile host of the packet-size into which packet-formatted data is permitted to be formed.

The dependent claims include all the limitations of their respective parent claims and are believed to be distinguishable over *Badt* for the same reasons as those given with respect to their parent claims. Particular additional note is made of the recitation of claim 2, as now-amended, of a notifier configured to notify a mobile host of the first packet size determined by the network-positioned determiner. While the Examiner relies upon Figure 3 of *Badt* for showing that a target host issues an ICMP echo response packet, column 6, lines 22-25, states merely that the response packet is received by a local system from a target system. There is no disclosure of a notifier that notifies a mobile host of the packet size responsive to determinations made by a determiner. The operation of notifying recited in claim 16 is analogously also not shown in *Badt*.

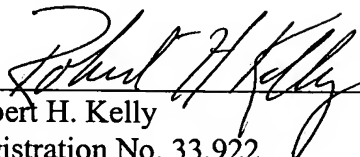
Further specific note is made of the recitation in claim 13 that, as now-amended, recites that the network-positioned determiner and the notifier are embodied at a packet data service node. *Badt* necessarily fails to disclose such structure. For example, column 5, lines 62-64, states that the error packet is transmitted back from a router to a local system. Assuming the applicability of the Examiner's assertion, the determiner and the notifier must necessarily be located at separate locations, i.e., the local system 10 and a router. Figure 1 shows the routers to be positioned at the Internet 12, not the local system 10.

In light of the foregoing, independent claims 1 and 16, as now-amended, and the dependent claims dependent thereon, are believed to be in condition for allowance. Accordingly, reexamination and reconsideration for allowance of the claims is respectfully requested. Such early action is earnestly solicited.

Application No. 10/723,438  
Amendment dated 2 September 2005  
Reply to Office Action of 2 June 2005

Respectfully submitted,

Dated: 2 Sep 05

  
Robert H. Kelly  
Registration No. 33,922

SCHEEF AND STONE, LLP  
5956 Sherry Lane, Suite 1400  
Dallas, Texas 75225  
Telephone: (214) 706-4201  
Facsimile: (214) 706-4242  
Email: [robert.kelly@scheefandstone.com](mailto:robert.kelly@scheefandstone.com)